

THE LEONARD LETTER

*A weekly electronic newsletter about
California government, business and taxes*

*Bill Leonard, Member
State Board of Equalization*

November 13, 2006

QUOTE OF THE WEEK

*"You have been sat here too long for any good you
have been doing." -- Oliver Cromwell
on the 1653 dissolution of the Rump Parliament*

ELECTION REFLECTIONS

*****Election Data*****

Since election day, pundits have been asserting that the Republicans lost this election more than the Democrats won it. However, the millions that was spent on voter research before the election has stopped, so we will not be able to prove or disprove the pundits' contentions. I wish some party had the resources to ask voters and non-voters shortly after the election why they behaved the way they did. We can speculate that corruption, Iraq, and local issues played a part, but we really do not know. It appears that in California Republicans did not turn out to vote in the numbers that were expected. Why?

In addition to that question, I want to know how voters react to campaigning. Did you get a pre-election phone call and did it help make up your mind on how to vote? Did you get an election day call or visit reminding you to vote? Did you vote for someone because you liked what they stood for, or did you vote against someone else because you did not like them?

In California where the losing candidate for Lt. Governor (Tom McClintock) received several hundred thousand MORE votes than the losing candidate for Governor (Phil Angelides) you might think two different groups of voters showed up last Tuesday. For partisans the idea that so many voters crossed party lines in casting their votes is unfathomable. But clearly it is those unallied voters who decide elections, and, unfortunately, we still do not know much about their decision making process.

*****Initiative Reform Unnecessary*****

Legislators and their support groups generally do not like the California initiative process. It is wild and out of their control. One of the complaints by initiative reformers is sheer number of initiatives that voters face. There were 13 ballot measures on the 2006 ballot. Eight of those

were put on the ballot by initiative petition out of dozens more that tried but did not get the necessary signatures. Six of those eight proposals were killed by the voters. Put this in perspective: that is about the same percentage kill rate as bills considered in the legislature. For two measures to survive this gauntlet and become law is a testimony to the critical judgment of voters. No reform is needed as long as the voters continue to do their jobs.

*****Party of the Rich*****

In a fascinating study released just before election day there was confirmation of what campaign consultants have known for awhile. The wealth of a voter is no longer a marker for which party that voter belongs to. The old charge that Republicans are the party of the rich is not true. The Democrats' vote share in the recent elections includes as much or more of the wealthy vote than the Republicans' share. This is one reason why the campaigns have moved into micro-targeting to find out how the wealthy spend their money. (It turns out that Reps and Dems spend their wealth in very different and predictable fashions.)

Daniel Gross from Slate magazine writes: "Here's the irony: As the number and relative weight of the wealthy grow, their incomes rising in part because Republicans have cut taxes on their incomes and capital gains, they're proving themselves less likely to vote their economic interests."

The reality is that in the 2006 elections the wealthy voter in American voted overwhelmingly Democrat. Unless the Democrats' new majority is very dumb with taxes, the wealthy will continue to vote based on issues other than their own economic interests.

*****Face of the New BOE*****

For future trivia questions only (and given the open opportunity in American firsts are coming faster and faster now) the new Board of Equalization that is seated in January will feature four out of the five Board members who are Californians of Asian descent. And perhaps even more against the stereotype of tax collectors, three of out five Board members will be female. I welcome Michelle Park Steele and Judy Chu to the Board and congratulate John Chiang on his promotion to State Controller.

ISSUE FOCUS

*****Why Lawyers Should Study Income Tax*****

From the Leonard Blog

Stephen Cohen of Georgetown University and Laura Sager of NYU have published an interesting book, "Why Civil Rights Lawyers Should Study Tax." The complexity of the tax code, and hence the way damages are structured, significantly affects how much victorious plaintiffs end up with after taxation. I really like that that the authors, without any hint of irony, chose to direct the book to "civil rights lawyers" who in this context help their citizen-clients avoid paying taxes more than they need to. Maybe law schools are not as pro-statist these days as I imagined.

Here is an abstract from the book:

Civil rights and income taxation may seem as far apart as any two legal subjects could be, but actually intersect in a surprising number of significant ways. Whenever money damages are sought in civil rights litigation, the tax treatment of damages will affect the amount that actually benefits the plaintiff after taxes. Even when litigation seeks non-money damages, as in predatory lending cases, civil rights lawyers need to attempt to structure the relief so that it does not cause undesirable tax consequences, such as income arising from forgiveness of debt. Civil rights lawyers may also need to analyze the financial consequences of tax benefits, such as tax-exempt status, in order to ascertain whether such benefits raise issues under the First Amendment's Establishment Clause and the Fourteenth Amendment's Equal Protection Clause.

Hat-tip: TaxProf Blog: <http://taxprof.typepad.com/>

*****Teaching Future Taxpayers*****

An elementary school teacher recently shared with me a poster that is part of a curriculum package used by fourth-grade teachers of English-learning students for social studies. The lesson we talked about was the causes of the American Revolution and the poster is designed both to emphasize one of those causes and teach English. The poster features four angry Revolution-era people and a "Revolutionary Chant" written by Jim Marshall that goes like this:

"No taxation without representation!
No taxation without representation!
No taxation without representation!
No way, we won't pay!
We won't pay without our say!
You have no right to make us pay!
Despite your might, we want our say!
Yes, we care and accept your dare
To defend our rights, that's only fair!"

I am delighted that we are teaching limited English students not only to speak the language but to develop the tax-resistant culture that characterizes Americans. Sometimes I believe we are losing that willingness to stand up to our government and demand fairness in taxation. Too many people just roll over and sigh about not "fighting city hall." At least these students are being taught that they can have a say, can protest, can object, and can win.

MISCELLANY

*****A Good Read*****

Perhaps you have heard about the new campaign being spearheaded by celebrities to raise money for medicine for sick Africans. If you have already purchased one of these "red" items, or have

ever complained about the amount of foreign aid in the U.S. budget, then I encourage you to read “The White Man’s Burden: Why the West’s Efforts to Aid the Rest Have Done So Much Ill and So Little Good” by William Easterly. Easterly examines global poverty and the \$2.3 trillion in Western aid that has been spent in attempts to reduce that poverty with “shockingly little to show for it.” Hearing that, one hopes the book will provide answers about how our money can be used more effectively to bring about change. However, Easterly conclusion’s are more realistic than necessarily satisfying. He says, “The fallacy is to assume that because I have studied and lived in a society that somehow would up with prosperity and peace, I know enough to plan for other societies to have prosperity and peace.” He contrasts the approach of Planners, who do believe they have all the answers to solve others’ problems, to Searchers, who understand that local conditions must be considered in order to achieve even incremental improvements. He says that Searchers have a more basic goal of making “individuals better off” than a sweeping mission of transforming government or society. Easterly invites us to study the changes the people of China are undergoing, which as reviewer Gerard Alexander writes, “improved their lives—and only coincidentally their country’s economy—through one incremental decision after another, decisions concerning employment, risk-taking, education and much else. In the process, more people in China have been lifted out of dire poverty, and in less time, than in any comparable episode in history. And foreign aid had absolutely nothing to do with it.”

BOE AND LEGISLATIVE DATES

November 15, 2006 --- Board of Equalization meets in Konocti Harbor with County Assessors.

November 20-21, 2006 -- Board of Equalization meets in Sacramento.

November 23, 2006 --- Thanksgiving Day.

December 4, 2006 --- The 2007-08 Regular Session of the Legislature convenes for an organizational session at 12 noon (Art. IV, Sec. 3(a)).

January 3, 2007--- Legislature reconvenes.

January 8, 2007 --- Swearing-in of new state Constitutional officers.

January 10, 2007 --- Budget Bill must be submitted by Governor (Art. IV, Sec. 12 (a)).

NOTABLE DATES/ HISTORY

November 13, 1982 --- The Vietnam Veterans Memorial honoring more than 58,000 soldiers was dedicated in Washington, D.C.

November 14, 1969 --- NASA launched Apollo 12, the second lunar landing mission and the first mission to make a pinpoint landing on the moon.

November 15, 1777 --- The American Congress adopted the Articles of Confederation of the United States of America and sent them to the states for ratification.

November 16, 1914 --- The Federal Reserve System formally opened.

November 17, 1800 --- The U.S. Congress convened for the first time in the partially completed Capitol building.

November 17, 2003 --- Arnold Schwarzenegger was sworn-in as the Governor of California after defeating Gray Davis in a special election.

November 18, 1883 --- To facilitate railroad timetables, the United States and Canada adopted Standard time.

November 18, 1963 --- The first push-button telephone went into service.

November 19, 1620 ---The *Mayflower* arrived off of the coast of Cape Cod.

November 19, 1863 --- American president Abraham Lincoln delivered the Gettysburg Address at the dedication of the Civil War cemetery at Gettysburg, Pennsylvania.

GENERAL TAX INFORMATION

For answers to your general tax questions, call the Board of Equalization information center. Customer service representatives are available to help you from 8:00 a.m. to 5:00 p.m. Pacific time, Monday through Friday (except state holidays).

Toll-free number: 800-400-7115
TDD service for the hearing impaired
TDD phones: 800-735-2929
Voice phones: 800-735-2922

To reach the Taxpayer Rights Advocate's office for assistance with any BOE issues, see <http://www.boe.ca.gov/tra/tra.htm>, or call toll-free 1-888-324-2798.

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